



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----	X
ALLSTATE INSURANCE COMPANY, et al.,	:
	:
Plaintiffs,	:
	:
-against-	:
	:
A&F MEDICAL P.C., et al.,	:
	:
Defendants.	:
-----	X

MEMORANDUM AND ORDER  
14-cv-6756 (ENV) (RLM)

VITALIANO, D.J.

Plaintiffs Allstate Insurance Company, Allstate Indemnity Company, Allstate Property & Casualty Insurance Company, and Allstate Fire & Casualty Insurance Company (collectively, “Allstate”) filed this action on November 18, 2014 against 58 individual and entity medical providers, alleging that they had been engaged in a scheme to defraud Allstate by submitting false or fraudulent insurance claims in violation of the Racketeer Influenced and Corrupt Organizations Act (“RICO”) and New York State’s No Fault Law.

Of the original 58 defendants, only 9 remain. They include 3 individuals—Nicholas Fennelli, M.D., Charles Nguyen, D.C., Melanie Walcott, D.C., and 6 entities—Alignment Chiropractic Care P.C., Avicenna Medical Arts PLLC, Dedicated Chiropractic, P.C., Heights Chiropractic Services P.C., Priority Medical Diagnostics P.C., and True-Align Chiropractic Care P.C. (collectively, “defendants”). Compl., Dkt. 1.<sup>1</sup> None of these defendants have appeared or otherwise responded to the complaint.

In June and July of 2015, the Clerk entered a default against each defendant. Entry of

---

<sup>1</sup> Nguyen is alleged to be the owner of Dedicated Chiropractic, and Fennelli is alleged to be the owner of Alignment Chiropractic.

Default, Dkts. 185–194. Allstate then filed the instant motion for default judgment on January 30, 2019, which was respectfully referred to Chief Magistrate Judge Roanne L. Mann for a Report & Recommendation (“R&R”). Motion for Default Judgment, Dkt. 605.

On September 11, 2019, Judge Mann issued her R&R, recommending that Allstate’s motion be granted in substantial part and judgment be entered against the defendants. R&R, Dkt. 611, at 19. Specifically, Judge Mann found that Allstate had adequately pleaded liability against all defendants for common law fraud and unjust enrichment under New York law, and against defendants Nguyen and Fennelli for operating racketeering enterprises in violation of RICO. *Id.* at 6–13.

With respect to Allstate’s RICO claims against defendants Nguyen and Fennelli, Judge Mann recommended that Allstate be awarded treble damages in the amounts of \$285,784.92 and \$301,079.22, respectively. *Id.* at 14. To avoid duplicative awards, however, she also recommended that Allstate not be awarded damages for the common law claims against Nguyen and Fennelli or prejudgment interest on the RICO claims. *Id.* at 15, 17.

With respect to the common law claims against the remaining defendants, Judge Mann recommended that Allstate be awarded compensatory damages as specified in an appendix to the R&R at 21,<sup>2</sup> along with prejudgment interest of 9% per year. *Id.* at 18. She recommended that prejudgment interest be computed using an accrual date of January 1st of the year following the year in which payment was made through the date judgment is entered.<sup>3</sup> *Id.* Finally, Judge Mann recommended that Nguyen and Fennelli, as the actors responsible for submitting

---

<sup>2</sup> Judge Mann’s appendix has been reproduced as an appendix to this Memorandum and Order.

<sup>3</sup> Judge Mann recommended that Allstate be directed to submit an updated calculation to the Court. R&R at 18.

fraudulent claims through their respective practices, be jointly and severally liable for compensatory damages with Dedicated Chiropractic and Alignment Chiropractic, respectively. *Id.* at 18–19.

Notice of time to object to the R&R was given. *Id.* at 19. None of the parties filed any objections within the prescribed time to do so.<sup>4</sup>

#### Discussion

Where no party has objected to a magistrate judge's report and recommendation, clear error review applies. *See Dafeng Hengwei Textile Co. v. Aceco Indus. & Commercial Corp.*, 54 F. Supp. 3d 279, 283 (E.D.N.Y. 2014). Having carefully reviewed the R&R in accordance with this standard, the Court finds it to be correct, well-reasoned and free of any clear error. The Court, therefore, adopts the R&R, in its entirety, as the opinion of the Court.

#### Conclusion

For the foregoing reasons, the R&R is adopted, in its entirety, as the opinion of the Court. Allstate's motion is granted and default judgment shall be entered against defendants Nicholas Fennelli, M.D., Charles Nguyen, D.C., Melanie Walcott, D.C., Alignment Chiropractic Care P.C., Avicenna Medical Arts PLLC, Dedicated Chiropractic P.C., Heights Chiropractic Services P.C., Priority Medical Diagnostics P.C., and True-Align Chiropractic Care P.C.

Further, Allstate is awarded damages as set forth in the attached appendix, plus prejudgment interest of 9% per year on all claims except the RICO claims against Nguyen and Fennelli. Nguyen is jointly and severally liable for compensatory damages with Dedicated Chiropractic. Fennelli is jointly and severally liable for compensatory damages with Alignment

---

<sup>4</sup> Judge Mann requested that the Clerk of Court mail copies of the R&R to defendants on September 11, 2019. R&R at 20. The copies mailed to defendants Nguyen and Priority Medical Diagnosis were returned as undeliverable. Dkts. 612, 613.

Chiropractic.

Prejudgment interest shall be computed from January 1st of the year following the year in which payment was made through the date judgment is entered. Allstate is directed to submit an updated prejudgment interest calculation in accordance with this Order.

So Ordered.

Dated: Brooklyn, New York  
December 18, 2019

s/ Eric N. Vitaliano

ERIC N. VITALIANO  
United States District Judge

# APPENDIX

Defaulting Defendant	Compensatory Damages	Trebled Damages	Total
Charles Nguyen, D.C.	\$95,261.64 <sup>5</sup>	\$285,784.92	\$285,784.92
Dedicated Chiropractic, P.C.	\$95,261.64	-----	\$95,261.64
Nicholas Fennelli, M.D.	\$100,359.74 <sup>6</sup>	\$301,079.22	\$301,079.22
Alignment Chiropractic Care P.C.	\$100,359.74	-----	\$100,359.74
Heights Chiropractic Services P.C.	\$39,401.03	-----	\$39,401.03
Avicenna Medical Arts P.L.L.C.	\$204,954.79	-----	\$204,954.79
Priority Medical Diagnostics P.C.	\$755,617.59	-----	\$755,617.59
True-Align Chiropractic Care P.C.	\$141,800.01	-----	\$141,800.01
Melanie Walcott, D.C.	\$12,229.60	-----	\$12,229.60

---

<sup>5</sup> Nguyen and Dedicated Chiropractic are jointly and severally liable for compensatory damages of \$95,261.64. No prejudgment interest should be awarded against Nguyen.

<sup>6</sup> Fennelli and Alignment Chiropractic Care are jointly and severally liable for compensatory damages of \$100,359.74. No prejudgment interest should be awarded against Fennelli.